

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
GORDON SURGICAL GROUP, P.C., <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	24-CV-8547 (VSB)
-against-	:	
	:	<u>ORDER</u>
EMPIRE HEALTHCHOICE HMO, INC.,	:	
<i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	
-----	X	

VERNON S. BRODERICK, United States District Judge:

On November 11, 2024, Plaintiffs filed this action against Defendants. (Doc. 1.) Plaintiffs obtained summonses as to each Defendant on November 12, 2024. (Docs. 6–7.) Pursuant to Federal Rule of Civil Procedure 4(m), service was due on February 10, 2025. To date, Plaintiffs have not filed an affidavit of service or taken any other action to prosecute this case. Accordingly, it is hereby:

ORDERED that, no later than February 25, 2025, Plaintiffs shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F. Supp. 654, 658

(S.D.N.Y. 1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff'd*, 173 F.3d 844 (2d Cir. 1999)). Plaintiffs are warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendants within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: February 18, 2025
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

VERNON S. BRODERICK
United States District Judge